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Control: 11329

Rec'd: APRIL 17, 1959
12:38 PM

FROM: LONDON

TO: Secretary of State

NO: 5396, APRIL 17, 1 PM (SECTION ONE OF TWO)

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No reply required

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SENT DEPARTMENT 5396; REPEATED INFORMATION PARIS 850,
BONN 370, MOSCOW, 236, BERLIN 130.

PASS DEFENSE

PARIS FOR USRO

FROM HILLENBRAND

FOLLOWING IS REPORT ON WORKING GROUP DISCUSSION APRIL
16 ON US-BERLIN PAPER:

1. OTHER DELEGATIONS CONSIDERED PAPER EXCELLENT AND
AGREED TO USE AS BASIS WORKING GROUP TREATMENT
BERLIN. BRITISH STATED THAT IN DRAFTING WOULD BE DESIRABLE
TO WORK FROM US PAPER WHILE INCORPORATING CERTAIN DESIRABLE
PHRASEOLOGY SET FORTH IN BRITISH PAPERS. IN PARTICULAR
BRITISH SUGGESTED THAT MORE PRECISION COULD BE GIVEN TO
EXPRESSION "ASSOCIATE" IN TAB A PARA 6. ALSO PHRASE
"MONITOR FULFILLMENT" IN PARA 8 A MIGHT WELL BE CLARIFIED.

2. BRITISH SUGGESTED THAT PARA 2 OF MAIN US PAPERS (AS
DISTINT FROM TAB) TOO DETAILED FOR PHASED PLAN. STATED
ANY OVERALL GERMAN SETTLEMENT IPSO FACTO INVOLVES BERLIN.
SETTLEMENT AND CONSEQUENTLY WOULD BE UNDESIRABLE TO GIVE
APPEARANCE OF PROPOSING ELABORATE INTERIM SETTLEMENT FOR
BERLIN. FELT THIS SECTION SHOULD BE REDUCED AND GENERALIZED
AS PART OF PHASED PLAN.

3. RE PARA 5 OF TAB BRITISH INQUIRED WHETHER PROPOSED
ARRANGEMENTS MIGHT BE SPELLED OUT IN DETAILED PROVISIONS
RELATING TO

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RELATING TO MILITARY AND CIVILIAN RIGHTS OF ACCESS TO BERLIN. WE REPLIED THAT MORE PRECISE SPELLING OUT NOT NECESSARILY INCOMPATIBLE WITH OUR CONCEPT, IF THIS APPEARED POSSIBLE IN COURSE NEGOTIATIONS WITH SOVIETS.

4. FRENCH IN COMMENTING UPON PROPOSALS RE UN PARTICIPATION SET FORTH IN TAB A SPOKE FAVORABLY OF UN PARTICIPATION FOR PURPOSE OF MONITORING ACCESS RIGHTS AS PROVIDED IN PARA 8. QUESTIONED, HOWEVER, WHETHER UN SPECIAL REPRESENTATIVE IN BERLIN SHOULD BE ESSENTIAL PART OF PROPOSAL. ON GROUND THIS MIGHT RESULT IN CONFLICT BETWEEN FOUR POWER RESPONSIBILITIES IN BERLIN AND UNDEFINED RESPONSIBILITIES OF UN SPECIAL REPRESENTATIVE, ADDED THAT FRENCH HAD NO OBJECTION TO UN PRESENCE IN CONNECTION WITH TECHNICAL PROBLEMS SUCH AS RESPONSIBILITIES RELATING TO REFUGEES AND PROPAGANDA BUT FEARED THAT SPECIAL REPRESENTATIVE MIGHT PLAY POLITICAL RATHER THAN TECHNICAL ROLE. HE CONCLUDED BY SAYING HE WAS NOT OPPOSED TO OUR PROPOSAL, BUT RATHER HIS ATTITUDE WAS ONE OF RESERVE TOWARDS UN SPECIAL REPRESENTATIVE.

5. US THEN EXPLAINED PROPOSALS FOR USE OF UN IN LIMITED ROLE WERE DESIGNED TO STAVE OFF PRESSURES FOR GREATER UN ROLE. PROPOSALS COULD BE IMPLEMENTED BY UN SECURITY GENERAL WITHOUT SECURITY COUNCIL OR GENERAL ASSEMBLY ACTION. UN SPECIAL REPRESENTATIVE WOULD NOT HAVE ANY RESPONSIBILITY FOR ENFORCEMENT OF ARRANGEMENTS AND WESTERN ALLIES WOULD HOLD SOVIETS RESPONSIBLE IN EVENT ANY BREACH OF ARRANGEMENTS. AGREEMENT CONCERNING PRESENCE AND FUNCTION OF UN SPECIAL REPRESENTATIVE WOULD BE WORKED OUT BY BIG FOUR, NOT UN. IN ADDITION TO MONITORING FULFILLMENT OF DECLARATIONS, FUNCTION OF SPECIAL REPRESENTATIVE MIGHT BE TO COORDINATE VARIOUS ACTIVITIES ASSIGNED TO UN AGENCIES UNDER PROPOSED ARRANGEMENTS. THIS SOLUTION WOULD NOT ONLY AVOID INTERFERENCE WITH FOUR

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WITH FOUR POWER RESPONSIBILITIES BUT WOULD MINIMIZE
POSSIBILITY OF UN ACTION ON LARGER SCALE. FRENCH
REPLIED THEY WOULD CONSIDER PROPOSAL FURTHER.

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6. FRENCH THEN COMMENTED DOUBTFUL WHETHER THERE SHOULD BE PROPOSAL ON BERLIN AS PART OF PHASED PLAN, BUT IF INCLUDED CONSIDERED REFERENCE SHOULD BE ABBREVIATED. ADDED THEY DISLIKED PLEBISCITE PROPOSAL RE TROOPS CONTAINED PARA 2B AS SUCH ACTION WOULD BE CONTRARY TO THEORY ON WHICH TROOPS STAYED IN BERLIN.

7. FRENCH SUBMITTED PAPER PROPOSING CERTAIN AMENDMENTS TO BRITISH PAPER ON INTERIM BERLIN SETTLEMENT. FRENCH STATED THAT MAIN PURPOSE PROPOSED AMENDMENTS WAS TO FIND NEW APPROACH TO DEFINING BASIS FOR WESTERN ALLIES PRESENCE IN BERLIN. PRESENT BASIS OF RELYING UPON RIGHTS DERIVED FROM CONQUEST NOW HAD UNPLEASANT CONNOTATION AND THEREFORE WOULD BE DESIRABLE TO INTRODUCE DEFINITION WITH GREATER PUBLIC APPEAL. THIS THEORY WOULD STRESS THAT ALLIED STATUS IN BERLIN WAS THAT OF TRUSTEES AS DERIVED FROM PARA 4 OF DECLARATION OF JUNE 5, 1945 TO EFFECT THAT THE RESPONSIBILITIES OF THE FOUR POWERS WERE UNDERTAKEN "IN THE INTEREST OF THE UNITED NATIONS."

8. GERMAN DELEGATION STATED HE HAD NO INSTRUCTIONS ON US PAPER. ON BASIS INSTRUCTIONS HE HAS RECEIVED THUS FAR, HE WOULD SAY INITIAL PROPOSAL RESPECTING BERLIN SHOULD BE

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BASED UPON THE PRESENT RIGHTS OF WESTERN POWERS IN WESTERN SECTORS OF BERLIN AND THAT ANY PROPOSALS RESPECTING ALL OF BERLIN SHOULD BE MADE ONLY AS FALLBACK POSITION.

9. GERMAN DELEGATION THEN INDICATED CONCERN THAT CURRENT PLANNING HAD NOT TAKEN INTO ACCOUNT PROBLEM OF NATO GUARANTEE REGARDING BERLIN WHICH IN ITS PRESENT FORM RELATED ONLY TO WESTERN OCCUPATION TROOPS IN BERLIN. IF ALL BERLIN WERE TO BE INCLUDED UNDER ARRANGEMENT WORKED OUT WITH SOVIETS, THEN STEPS SHOULD BE TAKEN TO BROADEN GUARANTEE.

10. GERMAN DEL SHARED BRITISH VIEW THAT DISCUSSION OF BERLIN IN PHASED PLAN SHOULD NOT BE ELABORATE BECAUSE OTHER POSSIBLE PROPOSALS RELATING TO BERLIN COULD THEN BE MORE EASILY INCLUDED IN DISCUSSIONS RESPECTING PHASED PLAN. USDEL REMARKED THAT PROPOSALS CONTAINED PARA 3 US MAIN PAPER WERE INTENDED FOR PRESENTATION IN EVENT IT BECAME APPARENT THAT NEGOTIATIONS ON PHASED PLAN WERE FRUITLESS AND IT BECAME NECESSARY TO SEEK SOME ARRANGEMENT ON BERLIN ALONE. GERDEL DESCRIBED GERMAN ATTITUDE ON UN ROLE AS ONE NOT TOO NEGATIVE, BUT RATHER OF HESITATION. ALSO HAD REQUESTED FURTHER INSTRUCTION ON LEGAL PROBLEMS RE GDR INVOLVED TAB A PROPOSALS. HE SUGGESTED PARA 11 TAB A MIGHT BE UNDESIRABLE ADMISSION ON PART OF WESTERN POWERS.

11. IN REPLY US DELEGATION STATED THAT PROBLEM OF GDR RECOGNITION HAD RECEIVED VERY CAREFUL STUDY IN PREPARATION TAB AND IT CONSIDERED THAT NO RECOGNITION COULD BE IMPLIED THEREFROM AS GDR DECLARATIONS WOULD BE PUBLIC STATEMENTS WHICH WOULD NOT BE ACKNOWLEDGED BY WESTERN POWERS.

12. GERMAN DELEGATION INQUIRED WHETHER WOULD NOT BE POSSIBLE TO OBTAIN SOVIET GUARANTEE UNDER TAB PROPOSALS ON BASIS OF AGENCY THEORY. USDEL RPT USDEL POINTED OUT THAT BASIS OF PAPER IS THAT SOVIETS HAVE REFUSED TO PROCEED ON AGENCY THEORY BECAUSE OF REJECTION OF PARA 3C PROPOSAL CONTAINED MAIN PAPER.

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13. BRITISH INQUIRED TO WHOM WOULD UN RPT UN OBSERVERS REPORT UNDER TAB A PARA 8B. USDEL STATED THAT IN MINOR CASES WOULD PROBABLY REPORT TO UN RPT UN SPECIAL REPRESENTATIVE. IN EVENT MAJOR VIOLATION ARRANGEMENTS WOULD CONSULT WITH FOUR POWERS AND PRESUMABLY REPORT TO UN SECRETARY GENERAL. USDEL POINTED OUT THAT UNDER ANNEX A ARRANGEMENTS OBVIOUSLY NOT SELF-ENFORCING. MINOR PROBLEMS COULD PRESUMABLY BE HANDLED WITHIN SCOPE OF ARRANGEMENTS BUT IN EVENT OF ANY DELIBERATE ATTEMPT BY SOVIETS OR EAST GERMANS CONTINUE ARRANGEMENTS, PROCEDURES SUGGESTED IN PAPER WOULD NOT BE SUFFICIENT.

IN SUCH CASE THERE WOULD BE OBVIOUS ADVANTAGES IN HAVING REPORT REGARDING SUCH ACTION TRANSMITTED TO UN. FRENCH SUGGESTED UN SPECIAL REPRESENTATIVE REPORT TO CONCILIATION COMMISSION ESTABLISHED IN PHASE I PHASED PLAN.

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